

## REMARKS

The disclosure was objected to because of an informality at page 11, line 4. The specification has been amended to correct this error.

Claims 1-22 are pending, including independent claims 1, 8, 10, 12, 14, 15, and 20-22.

Claims 1, 2, 5, 15, 16 and 18 were rejected under 35 U.S.C. § 102 as being anticipated by an "Ebay Publication" allegedly dated 4/28/99. Applicant disagrees with this rejection.

The feature in the Ebay Publication that is relied on by the Examiner ("Featured Auction," at p. 8 of 18) is not applicable. According to the document, if a seller chooses the Featured Auction listing option, the seller's item may appear at the top of the main eBay listings page and on other featured display areas. The cost of this listing option is a flat Insertion Fee of \$99.95 for each seller choosing this option. The document states, however, there is no guarantee that a Featured Auction item would be displayed. The appearance of a seller's item would depend on being selected randomly from among all of the current Featured Auctions at any given time.

Claim 1 has been amended to clarify that a search parameter of a user is received; at least two vendor offerings that match the search parameter are identified; and the offerings are ranked, with the ranking module, so as to increase income received by the entity with which the ranking module is affiliated. This method is not at all described in the Ebay Publication.

Dependent claim 2 adds that estimated selection revenues received by the first entity when a user selects the first or the second offerings are calculated. In the Ebay Publication, however, the Featured Auction listing option requires a single, flat Insertion Fee paid by each seller, not estimated selection revenues associated with a user selecting first and second offerings.

Dependent claim 5 adds that estimated purchase commissions received by the first entity when a user purchases an item offered in the first or the second offerings are calculated. Again, the Featured Auction listing option requires a single, flat Insertion

Fee paid by each seller, not estimated purchase commissions associated with a user purchasing an item offered in the first and second offerings.

Independent claim 15 has been amended to clarify that the system comprises at least two offerings from an on-line vendor that match a search parameter, and a ranking module affiliated with a first entity that ranks the first and second offerings relative to one another so as to increase income receive by the first entity. As explained above in connection with claim 1, the Featured Auction listing option of the Ebay Publication does not at all describe such a system. Dependent claims 16 and 18 correspond to dependent claims 2 and 5, respectively, and are not anticipated by the Ebay Publication for the reasons discussed above.

Claims 3, 4, 6-14, 17 and 19-22 were rejected under 35 U.S.C. § 103(a) as being obvious over the Ebay Publication in view of U.S. Patent No. 5,664,115 ("Fraser"). Applicant disagrees with this rejection. Fraser is directed to an interactive system for matching buyers and sellers of real estate, businesses and other property using the Internet (see title, Abstract). The preferred embodiment addresses the sale of real estate.

Fraser was cited as teaching estimating a purchase likelihood by a user. However, Fraser does not define what he means by "the likelihood that a particular buyer can or will purchase a particular property" based on information regarding the property and information obtained from the prospective buyer. No coding, flowchart or other description is provided that defines this "purchase likelihood" as an estimated probability of purchase as the Examiner infers. On the other hand, it appears likely that the "purchase likelihood" of Fraser may simply be a financial evaluation of whether the potential buyer can afford the property. See, e.g., Fig. 3 (application 38, "Buyer Screening"); col. 6, lines 53-67; col. 10, lines 10-14, 28-35.

Further, there is no suggestion or teaching in the cited references that their teachings could or should be combined to result in Applicant's invention. The Court of Appeals for the Federal Circuit has made it clear that such a suggestion or motivation is required to support an obviousness rejection.

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the

combination. Under section 103, teachings can be combined only if there is some suggestion or incentive to do so.

*ACS Hospital Systems, Inc. v. Montefiore Hospital*, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984) (emphasis added). The Court of Appeals has also advised:

It is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art.

*Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve*, 230 U.S.P.Q. 416, 419 (Fed. Cir. 1986) (quoting *In Re Wesslaw*, 147 U.S.P.Q. 391, 393 (C.C.P.A. 1965)). Since neither of the cited references provides any suggestion or motivation to combine them, their combination is improper and the Examiner's rejections should be withdrawn.

Substantively, the Ebay Publication is not applicable to claims 3, 4, 6, and 7, depending from claim 1, and claims 17 and 19, depending from claim 15, as discussed above in connection with claims 1 and 15, and Fraser does not cure the deficiencies of the Ebay Publication.

Independent claim 8 has been amended to clarify that a term entered by a user is received; at least two vendor offerings that match the term are identified; and one offering is ranked relative to another offering by a ranking website so as to increase income received by a first entity with which the ranking website is affiliated. The ranking website estimates the likelihood a user will select the first offering and calculates an estimated selection revenue received by the first entity when a user selects the first offering. As explained above, the Ebay Publication does not describe or suggest such a method, and Fraser does not cure the deficiencies of the Ebay Publication. Dependent claim 9 similarly is not described in or suggested by the cited references.

Independent claim 10 (and dependent claim 11) recites, inter alia, ranking vendor offerings relative to one another so as to increase income received by a first entity with which the ranking website is affiliated, wherein the ranking website estimates a purchase likelihood of a user purchasing an item offered in a first vendor offering and calculates an estimated purchase commission received by the first entity when the user

purchases the item. As explained above, such a method is not described in or suggested by the cited references.

Independent claim 12 (and dependent claim 13) recites, inter alia, ranking vendor hyperlinks relative to one another so as to increase income received by a first entity with which the ranking website is affiliated, wherein the ranking website estimates a click likelihood of a user clicking on a hyperlink, calculates an estimated click revenue received by the first entity when a user clicks on the hyperlink, estimates a purchase likelihood of a user purchasing an item offered on a website associated with the hyperlink, and calculates an estimated purchase commission received by the first entity when a user purchases the item. As explained above, such a method is not described in or suggested by the cited references.

Independent claim 14 recites, inter alia, ranking vendor referrals relative to one another so as to increase income received by a first entity with which the ranking module is affiliated, wherein for each of first and second referrals to an on-line vendor the ranking module estimates a click likelihood of a user clicking on the referral, calculates an estimated click revenue received by the first entity when a user clicks on the referral, estimates a purchase likelihood of a user purchasing an item mentioned in the referral, and calculates an estimated purchase commission received by the first entity when a user purchases the item. As explained above, such a method is not described in or suggested by the cited references. Dependent claim 17 also is not suggested by the cited references for at least the same reasons.

Independent claim 20 has been amended to recite, inter alia, two vendor offerings that match a search parameter; and a ranking module affiliated with a first entity that ranks the vendor offerings so as to increase income received by the first entity, wherein for each offering the ranking module estimates the likelihood a user will select the offering and calculates an estimated selection revenue received by the first entity when a user selects the offering. As explained above, such a method is not described in or suggested by the cited references.

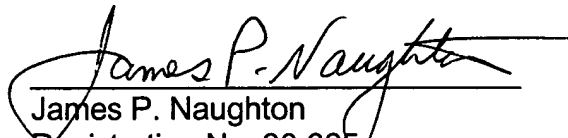
Independent claim 21 recites, inter alia, a system that ranks vendor offerings relative to one another so as to increase income received by a first entity with which the ranking module is affiliated, wherein for each of first and second vendor offerings the

ranking module estimates a purchase likelihood of a user purchasing an item offered in the offering and calculates an estimated purchase commission received by the first entity when the user purchases the item. As explained above, such a method is not described in or suggested by the cited references.

Independent claim 22 recites, inter alia, a system that ranks vendor offerings relative to one another so as to increase income received by a first entity with which the ranking module is affiliated, wherein for each of first and second vendor offerings the ranking module estimates a selection likelihood that a user will select the offering, calculates an estimated selection revenue received by the first entity when a user selects the offering, estimates a purchase likelihood of a user purchasing an item in the offering, and calculate an estimated purchase commission received by the first entity when a user purchases the item. As explained above, such a method is not described in or suggested by the cited references.

In summary, Applicant submits that the claims, as amended, are patentable over the cited references, and Applicant respectfully requests reconsideration and allowance of this application.

Respectfully submitted,

  
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